

Message Text

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ACTION EUR-12

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C O N F I D E N T I A L OTTAWA 09838

E.O. 11652: GDS
TAGS: ETEL, CA
SUBJECT: BORDER TELEVISION: LAW C-58

REF: STATE 264924

1. SUMMARY. GOC UNTIL NOW HAS BEEN UNWILLING TO BUDGE ON C-58; WE SEE LITTLE PROSPECT FOR CHANGE IN THAT POSITION BOTH BECAUSE OF PAST PUBLIC POSTURE AND POLITICAL IMPORTANCE ATTACHED TO ENCOURAGING CANADIAN CULTURE IN ALL FORMS. WE CONCUR WITH DEPARTMENT THAT THERE IS LINK BETWEEN C-58 AND SUSPENDED COMMERCIAL DELETION PROGRAM AND ALSO WE BELIEVE THERE ARE OTHER, POSSIBLY MORE EFFECTIVE AND SUBTLE, MEANS FOR GOC TO FURTHER ITS OBJECTIVE DEPARTMENT MAY WISH TO DRAW THESE RISKS TO BROADCASTERS' ATTENTION SO THAT THEY COULD BE ADDRESSED IN BROADCASTERS' SUBMISSION. END SUMMARY.

2. SINCE ITS ENACTMENT, WE HAVE FOUND NO WILLINGNESS IN THE GOC AT ANY LEVEL TO CONSIDER RESCINDING OR SIGNIFICANTLY MODIFYING C-58. IN FACT, SUGGESTION OF LINKAGE OF ACTION ON C-58 TO POSSIBLE U.S. MODIFICATION OF ITS TAX TREATMENT OF FOREIGN CONVENTION EXPENSES WAS
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NOT ONLY REJECTED AT THE OFFICIAL LEVEL BUT ALSO CAUSED MINOR FLURRY OF PROTEST IN PARLIAMENT. CONSEQUENTLY, WE DOUBT THAT FURTHER REPRESENTATIONS WE MIGHT UNDERTAKE WOULD BE EFFECTIVE. MOREOVER, GIVEN SIMILARITY OF OBJECTIVES BETWEEN C-58 AND SUSPENDED PROGRAM OF COMMERCIAL DELETION, THERE IS ALWAYS RISK THAT WHAT MIGHT BE GAINED IN ANY ADJUSTMENT OF C-58 COULD BE LOST BY RESUMPTION OF COMMERCIAL

DELETION.

3. MEANWHILE VIEWING OTHER ALTERNATIVES, CANADIANS MAY FIND THAT THEY CAN ACCOMPLISH THEIR GOAL OF INCREASING CANADIAN TV COMMERCIALS WITHOUT NEEDING TO RELY ON C-58 BY SUCH MEANS AS NON-SIMULTANEOUS SUBSTITUTION OF PROGRAMS (OTTAWA 1875, MAY 11, 1976), OR BY OBTAINING A SIGNAL FROM U.S. STATIONS MORE DISTANT FROM THE BORDER AREA, AS THEY ARE NOW DOING FOR CABLE TRANSMISSIONS TO OTTAWA. SIGNAL NOW COMES FROM ROCHESTER - PREVIOUSLY FROM WATERTOWN - AND, APPARENTLY ROCHESTER STATION HAS NOT FOUND IT PRACTICABLE OR WORTHWHILE TO SELL ADVERTISING IN CANADA, THUS ELIMINATING THE CANADIAN ADVERTISING PREVIOUSLY DONE ON THE WATERTOWN STATION. ANOTHER POSSIBILITY, PREVIOUSLY DISCUSSED, WOULD BE DIRECT PURCHASE OF SIGNALS FROM U.S. NETWORKS FOR DISTRIBUTION TO CANADIAN CABLE OPERATORS -- THUS ALSO ELIMINATING THE POSSIBILITY OF CANADIAN ADVERTISING ON BORDER STATIONS. UNDER ANY OF THESE POSSIBLE PLANS, BORDER STATIONS WOULD STAND TO LOSE ALL OF THEIR ADVERTISING REVENUES RATHER THAN 50 PERCENT THEY NOW CLAIM.

4. IN SUM, WE DO NOT BELIEVE AN APPROACH TO THE CANADIANS CITING U.S. STATIONS' LOSSES UNDER THE OPERATION OF C-58 WILL CAUSE THEM TO MOVE FROM THEIR PRESENT POSITION AND MAY ONLY RECONFIRM THAT C-58 IS ACCOMPLISHING ITS CONFIDENTIAL

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PURPOSE. IF WE PRESS GOC HARD ON THIS ISSUE, IT MAY MOVE MORE QUICKLY TO DEVELOP SOME OF THE ALTERNATIVES OUTLINED ABOVE. WHILE THEY MIGHT BE MORE EQUITABLE AND THUS MORE ACCEPTABLE TO US, THEY WOULD NOT AID THE BORDER STATIONS AND MIGHT ASSURE THAT THERE WOULD BE NO POSSIBILITY IN THE FUTURE OF OBTAINING ANY REVENUES FROM CANADIAN ADVERTISING. BEFORE PROCEEDING WITH ANY FURTHER APPROACH TO THE GOC, THE VIEWS OF THE BORDER STATIONS SHOULD BE SOUGHT ON THIS ASSESSMENT OF RISKS. PERHAPS THESE POINTS COULD BE COVERED IN THE SUBMISSION THE DEPARTMENT HAS REQUESTED FROM THE BROADCASTERS MENTIONED PARA (3) REFTEL. ENDERS

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